

Turning to Ameritech Michigan's argument that the 1994 report to the Governor and the Legislature recognized that the Commission lacks authority to require unbundling, the Commission finds that the company has misinterpreted that report. The proposed amendment discussed in that report relates to Section 206(1) of Act 179, which deals with the offering of new services. In that regard, the Commission merely suggested more clearly defined powers to require changes in terms and conditions under which a service is offered. The proposed amendment has nothing to do with the Commission's authority to establish unbundling as a term of interconnection pursuant to Section 303(2) of Act 179.

Equally misplaced is Ameritech Michigan's argument that compelling it to provide unbundled loops would constitute a confiscation of property in violation of the Michigan and United States Constitutions. The Just Compensation Clause of the Fifth Amendment to the United States Constitution prohibits only uncompensated takings of property. (U.S. Const., Am V.) None of the parties in this case has proposed that Ameritech Michigan not be compensated for its provision of unbundled loops. Indeed, the pricing of those loops was litigated during the course of this proceeding. Consequently, despite Ameritech Michigan's litany of cases on this issue, the concept of the taking of property without just compensation is not applicable to the facts of this case.

The Commission specifically rejects Ameritech Michigan's reliance on the Bell Atlantic case because it is based on a mischaracterization of that decision. Contrary to Ameritech Michigan's representation, the Court in that case vacated the FCC order only insofar as it required physical collocation of competitors' facilities inside the LECs' facilities. The decision did not address the FCC's authority to require unbundling.

The Commission also rejects Ameritech Michigan's interpretation of interconnection because, like its interpretation of bundling, it is too narrow. Section 303(2) of Act 179 empowers the Commission to establish the terms of interconnection, absent agreement between the parties. Nothing in that section of the statute limits the Commission to any particular form of interconnection.

Having found that the Commission has authority to require the unbundling of Ameritech Michigan's local loops, the record also supports the conclusion that unbundled loops are vital to local exchange competition and in the public interest. Ms. Murray testified that unbundling offers customers a competitive alternative to Ameritech Michigan's services in the following manner:

"[F]or customers that City Signal would serve using Michigan Bell's loop or 'access' facilities, City Signal would provide facilities-based competition for Michigan Bell's switching and transport facilities. Of course, City Signal would also provide these customers with a competitive alternative to Michigan Bell's customer service and billing functions. Finally, City Signal would compete with Michigan Bell in designing creative service offerings and pricing arrangements that would best meet individual customer needs and desires. Therefore, competition in which City Signal includes a Michigan Bell provided loop as one element of a total package of local exchange services could constitute a true competitive alternative to Michigan Bell's bundled local exchange offering." (5 Tr. 278.)

In addition, Mr. Laub testified that unbundling accomplishes several important goals. He stated that:

"First, it permits potential competitors to purchase only those functions that they need from the incumbent LEC. This permits those network functions that can be provided on a competitive basis to be provided competitively, while limiting the extent of costly and unnecessary duplication of functions for which competition may not be viable. Second, it creates new points of interconnection--new interfaces--between the incumbent LECs and [competitive local exchange service providers].

"Finally, unbundling provides a basis for estimating the total service long-run incremental cost ("TSLRIC") of the use of network functions on a consistent basis. In doing so, the joint application of unbundling and TSLRIC offers a mechanism for the ready detection of subsidy and discrimination in pricing." (6 Tr. 702-03.)

Based on this testimony, the Commission rejects Ameritech Michigan's assertion that no substantive evidence was presented to demonstrate why unbundled loops are essential to competition.

On the other hand, the Commission is not persuaded that further unbundling of the local exchange network, as advocated by MCI, AT&T, and Teleport, is necessary at this time. In fact, Mr. Laub testified that the more comprehensive unbundling is not immediately necessary for entry of competitive firms into the local exchange market. Rather, he indicated that those other unbundled network functions should be adopted in a more generic or permanent proceeding. The Commission agrees that the issue of more extensive unbundling should be addressed in the context of a generic proceeding.

The Commission therefore finds that unbundling is necessary to enable City Signal to hold itself out to provide service to every customer within the geographic area of its license. As Ms. Murray testified, the only way that a new entrant can do this is to rely on a combination of its own facilities and facilities leased from the incumbent LEC. (5 Tr. 280.) It is simply unrealistic to expect a new LEC to be able to initially rely solely on its own facilities to serve all customers in an exchange area. Furthermore, contrary to Ameritech Michigan's contention, the demand for unbundled loops is not speculative. As Ms. Murray explained, a potential demand for unbundled loops exists for every customer in the Grand Rapids area where City Signal has yet to build its own loop facilities. (5 Tr. 283.) Furthermore, even if City Signal built its own network, there would still be a need for unbundling. Ms. Murray testified that certain incumbent LEC facilities will continue to be bottleneck facilities even for competing facilities-based LECs for some time into the future. (5 Tr. 280.) In fact, contrary to MECA's suggestion, City Signal has already made a significant investment in the Grand

Rapids area. However, it needs to combine its facilities with Ameritech Michigan's loops to be able to hold itself out to provide service to every customer in the geographic area of its license.

The Commission also rejects Ameritech Michigan's contention that its existing services will provide viable alternatives for City Signal and, consequently, unbundling is unnecessary. Brad Evans, City Signal's Executive Vice-President, effectively refuted that position.

Mr. Evans, who has over 15 years experience in the telecommunications industry and was formerly one of GTE's top designers and marketers of private fiber optic networks, testified that none of Ameritech Michigan's dedicated point-to-point private line connections are equivalent to the provision of an unbundled loop. He explained that, while an unbundled loop is a basic connection from the serving wire center to the customer's premise, such access is not provided over video and audio connections. Additionally, Mr. Evans testified that a voice grade private line service is not an adequate alternative to unbundled loops, because it provides for two channel terminations and unnecessary transmission equipment. Furthermore, he indicated that the costs for these services include maintenance, testing, and other items or activities are not applicable to the unbundled loops that City Signal is seeking. Mr. Evans further stated that sub-voice grade service does not provide sufficient bandwidth to maintain voice quality and, consequently, it is technically insufficient. As with the voice grade connection, Mr. Evans also stated that digital data and high speed data connections provide for two channel terminations and unnecessary transmission functionality. (5 Tr. 389-90.)

Continuing, Mr. Evans also stated that FGA services provide access to an IXC and, consequently, they are not relevant here. Furthermore, even if they were relevant, Mr. Evans explained that FGA requires an end-user to dial a seven-digit access code before forwarding

the local dialing instructions. As a result, the end-user would have to dial a total of 14 digits to process local calls. (5 Tr. 390.) In addition, although Ameritech Michigan indicated that City Signal could simply resell STS and Centrex services, Mr. Evans stated that City Signal is not interested in doing that. He explained that under those arrangements, Ameritech Michigan would continue to be the local dial tone provider. Under a resale arrangement, calls would originate and terminate on Ameritech Michigan's network and would never touch City Signal's network. Furthermore, Ameritech Michigan would charge City Signal its business rates, even though the services would be provided to residential customers. Mr. Evans concluded that Ameritech Michigan simply proposes to repackage its current products in order to sell them at a higher price to competitors. (5 Tr. 391.)

MCI witness Mr. Laub confirmed that the direct effect of using Ameritech Michigan's proposed alternatives would be to subject City Signal's operations to an anti-competitive "price squeeze." For example, Mr. Laub stated that the minimum rate for a voice grade private line circuit is \$23 per line per month. The rates for STS include a flat rate of \$10.71 per month and a usage-sensitive rate of \$.082 per call. The rates for the resale of Centrex are similar: \$9.76 per line per month plus \$.082 per call. According to Mr. Laub, City Signal would have to pay Ameritech Michigan wholesale charges that are equivalent to or greater than the retail rates that Ameritech Michigan charges its end-users. Mr. Laub stated that this would result in a price squeeze because, to profit from its own sale of the services, City Signal would have to charge its end-users more than it would pay Ameritech Michigan. Mr. Laub concluded that this would make marketing the services next to impossible. (6 Tr. 712-13.) Based on this testimony, the Commission is persuaded that, despite Ameritech Michigan's constant refrain that it "supports full and fair competition in all aspects of the telecommunications

marketplace,"¹¹ its proposals would virtually eliminate City Signal's opportunity to effectively compete, contrary to the intent of Act 179.

In conclusion, the Commission finds that Ameritech Michigan's and MECA's positions on the issue of unbundling are inherently inconsistent. On the one hand, Ameritech Michigan and MECA criticize City Signal for allegedly concentrating its marketing efforts on higher-usage customers, claiming that it constitutes cream skimming. On the other hand, Ameritech Michigan does not want to offer City Signal the unbundled loops it initially requires to provide service outside of the higher-usage area. Furthermore, it is apparent that Ameritech Michigan will offer any argument to support its position that it should not be required to provide unbundled loops in the absence of interLATA relief. As a result, the Commission can only conclude that Ameritech Michigan's position is not really about the Commission's authority under Act 179 or any unconstitutional taking of property. Rather, Ameritech Michigan's position is that it will voluntarily offer unbundled loops only when it obtains interLATA relief. Therefore, all of Ameritech Michigan's and MECA's arguments must be rejected.

Turning to the pricing of unbundled local loops, the Commission finds that Ameritech Michigan's, GTE's, and MECA's arguments should be rejected. In its September 8, 1994 order in Case No. U-10620, the Commission refined the definition of and developed a methodology to determine the long-run incremental cost for application under Act 179. The Commission found that TSLRIC is the appropriate cost floor and that it will ensure that all customers who use identical network functions are assigned the same level of cost. The Commission therefore ordered that TSLRIC be applied to determine costs for many unbundled network functions.

¹¹Ameritech Michigan's brief, p. 3, and exceptions, p. 1.

In this case, City Signal and the Staff were the only parties that presented testimony proposing specific prices for unbundled loops. In doing so, they effectively refuted Ameritech Michigan's contention that the provision of unbundled loop services at rates equal to TSLRIC would constitute a subsidy to City Signal. In particular, Ms. Murray testified that:

"Economic theory teaches that any rate that recovers appropriately measured long-run incremental costs is fully compensatory and is not subsidized by any other service. Therefore, City Signal's proposed rates fully meet the economic test for avoidance of cross-subsidization, with the possible limited exception of the residential loop rate. The Commission may wish to raise the residential loop rate to \$11.25 to avoid any risk of cross-subsidization.

* * *

"Moreover, because the cost of loop services tends to decline with increasing subscriber density, it is likely that Michigan Bell's cost of unbundled loop services in Grand Rapids is lower than its statewide average cost. Therefore, provision of unbundled loop services to City Signal in Grand Rapids at a rate based on statewide average loop costs is likely to provide a contribution above Grand Rapids-specific costs to Michigan Bell." (5 Tr. 287-88.)

In fact, as indicated earlier in this order, Ameritech Michigan specifically stated that the purpose of LECs' determining long-run incremental cost is to demonstrate that services are not subsidized.

The Staff's analysis also demonstrates that City Signal's proposed rates of \$8 and \$11 actually exceed TSLRIC. In making its determination, the Staff developed a combined unbundled loop rate. The Staff assumed that City Signal's purchase of loops would match the existing ratio of business and residential lines in Grand Rapids, i.e., 26.5% and 73.5%, respectively. Applying that ratio to the proposed unbundled loop rates produced a combined rate of \$10.21, which exceeds the \$8.99 TSLRIC unbundled loop cost calculated by Ameritech Michigan. Based on Ms. Murray's testimony and the Staff's analysis, the Commission rejects the argument that City Signal's proposed rates will result in a subsidy.

The record also demonstrates that the proposed rates do, in fact, include a contribution to overheads in addition to a return on investment. In any event, as AT&T correctly points out, it is unlikely that, during the transitional period, City Signal will need a large number of loops to serve the customers it acquires in the Grand Rapids area. As a result, any positive or negative effect resulting from the prices will be limited. Moreover, Ameritech Michigan's development of its TSLRIC cost study, as required by the September 8, 1994 order in Case No. U-10620, will make it possible to address this issue more fully in a generic proceeding.

The Commission further finds that the \$8 and \$11 rates are based on total company costs. Consequently, if Ameritech Michigan assesses a federal EUCL charge for the unbundled loop, that charge should offset the \$8 and \$11 rates. Not allowing for an offset of any interstate recovery through the EUCL charge would result in a double recovery of interstate costs.

Based on the foregoing discussion, the Commission finds that City Signal's proposed pricing is reasonable on a transitional basis and, therefore, it should be adopted. In contrast, the Commission agrees with the ALJ's conclusion that Ameritech Michigan's criticism of the Staff's analysis is disingenuous because it did not offer its own analysis, despite the fact that it had the opportunity to do so. Although Ameritech Michigan explains that it did not make a presentation because it does not propose to offer unbundled loops, the company could have presented testimony on this issue and chose not to do so.

Local Number Portability

Local number portability is the ability of a customer to change basic local exchange service providers while retaining his or her local telephone number, i.e., the local telephone number is "portable" between carriers. City Signal contended that local number portability is critical to an emerging competitive basic local exchange market, because customers will be reluctant

to change LECs if they have to change their telephone numbers. However, the ability to keep an existing local telephone number when transferring to another provider does not exist today as it does for 800 prefix numbers. City Signal therefore requested that the Commission require Ameritech Michigan to provide an interim solution to number portability through any technically feasible means and to develop a long-range solution such as a data base solution using Signalling System 7 (SS7) technology.¹²

As an interim solution, City Signal proposed to use two services currently offered by Ameritech Michigan--Direct Inward Dialing (DID) and Remote Call Forwarding (RCF). DID provides an alternative number portability solution for large customers or larger groups of telephone numbers. Using DID, a call comes into an Ameritech Michigan central office and is directed to a dedicated DID one-way trunk that transports the call to its final destination, which could be a City Signal central office. RCF enables a customer to remotely forward a call from one central office to another central office. City Signal further proposed that it would also provide number portability in situations in which it assigns the initial number and the customer changes its local exchange service provider.

DID and RCF were not designed to be used as number portability options and, consequently, most of the parties argued that they are fundamentally inadequate solutions on a long-term basis. Nevertheless, none of the parties objected to the use of DID and RCF to effect number portability on an interim basis. MCI, however, recommended that the Commission establish a deadline of one year for Ameritech Michigan to develop a long-term number portability solution.

¹²SS7 is a network signalling system, which accommodates enhanced 800 service, wide-area Centrex services, virtual private networks, and other types of advanced telecommunications services.

The remaining issue in dispute relates to the appropriate price for DID and RCF services. City Signal proposed that, as an interim measure, the Commission require that number portability be provided without charge for policy reasons similar to those adopted in other states. More specifically, City Signal and MCI recommended that the Commission adopt a solution similar to that proposed by Rochester Telephone Company before the New York Public Service Commission. That commission allowed the additional switching and transport costs associated with the provision of number portability through DID or RCF to be recovered through a surcharge on telephone numbers, payable by each local exchange service provider based on the number of telephone numbers served by each carrier. (Case 94-C-0095, February 10, 1994.) MCI argued that this approach is premised on the assumption that there is an economic value to having number portability, whether or not a particular customer uses it.

Because cost information regarding DID and RCF was not initially available, the Staff recommended that Ameritech Michigan make those services available to City Signal at equivalent present rates during the transitional period. For DID service, based on Exhibit I-83 and City Signal's and MCI's briefs, this would equate to a rate of between \$.58 and \$.83 per telephone number per month.

The Staff further proposed that, for termination of a ported DID toll call to a City Signal end-user, Ameritech Michigan would only be able to bill an IXC for the tandem switching rate if it is applicable. On the other hand, City Signal would charge an IXC the local switching and end-office charges. According to the Staff, this will ensure that each LEC receives the appropriate portion of switched access charges with no double billing of IXCs.

For the completion of local calls using DID or RCF, the Staff also proposed that Ameritech Michigan continue to pay City Signal the \$.05 local call termination charge for calls terminated on City Signal's network. In other words, the Staff explained, termination charges should continue to apply even in situations in which DID or RCF is used by City Signal, thereby acting as an offset to DID and RCF charges.

MCI asserted that, if there are to be charges for the provision of DID and RCF, they should be set to recover Ameritech Michigan's incremental costs. Based on Ameritech Michigan's responses to MCI's discovery requests, MCI calculated the incremental costs for using DID and RCF to be approximately \$.20 and \$1.14 per month, respectively.

Ameritech Michigan, on the other hand, contended that these services should not be offered at cost. According to Ameritech Michigan, it would be inappropriate to provide these services to City Signal at incremental cost while other customers must purchase them at tariffed rates. Ameritech Michigan witness William DeFrance, Director of Components and Interconnection for Ameritech's Information Industry Services, testified that DID is currently offered at a rate for purchasing blocks of 20 telephone numbers. However, he indicated that Ameritech Michigan would be willing to offer a per telephone number rate, which he estimated would be \$1.50 per telephone number per month. As to RCF, Mr. DeFrance stated that the charge associated with that service is \$20.45 per line per month, plus \$.082 per call.

Ameritech Michigan also took issue with the calculation of the incremental cost of DID and RCF. Ameritech Michigan stated that DID was developed prior to the emergence of the number portability issue and, consequently, no costs have been developed to provide DID as a number portability solution. Furthermore, Ameritech Michigan submitted that there are a number of deficiencies in the calculations performed by City Signal and MCI. Ameritech

Michigan presented similar arguments relative to RCF and pointed out that the Commission's December 22, 1992 order in Case No. U-10064 found RCF to be an unregulated service. As to the recovery of costs, Ameritech Michigan argued that cost causers should pay for the price of a ported number. The company asserted that any other arrangement would create subsidies from the customers of one provider to the customers of another provider.

Ameritech Michigan also took the position that it would be irresponsible to mandate that a data base number portability solution be developed within one year from the Commission order as suggested by MCI. Ameritech Michigan stated that no evidence was produced to support such a schedule. Rather, Ameritech Michigan pointed out, evidence showed that Ameritech Michigan and AT&T have been working with the industry to develop an appropriate solution. Consequently, Ameritech Michigan submitted, it would be improper to assess a penalty against it because the industry has not as yet developed a true number portability solution. Finally, Ameritech Michigan contended that the Rochester Telephone Company case provides a poor cost model for this proceeding. According to Ameritech Michigan, that case was predicated on a settlement of overearnings involving a comprehensive agreement between Rochester Telephone Company and Time Warner, Inc., encompassing issues that are not comparable to the matters presented in this case.

GTE argued that number portability should not be required until the demand for it is clearly established. GTE also contended that the cost for number portability should be borne by those who want it, because it would be unfair to require providers and customers that have no demand for number portability to subsidize those who want that option.

MECA took the position that number portability is a national issue that must first be resolved at the federal level. MECA therefore recommended that the Commission defer this issue to the FCC.

The ALJ noted that all of the parties recognized that DID and RCF are the only currently available solutions to number portability and that, while they have some limitations, they may be used on an interim basis. The ALJ acknowledged that these services were not originally established to provide a number portability solution. However, he found that they will provide an adequate solution on a transitional basis. The ALJ further found that these services should not be provided to interconnecting carriers free of charge. He was also not satisfied that the Rochester Telephone Company settlement should be used as precedent in this case, because no details regarding the circumstances giving rise to the settlement and the agreement itself were presented.

Although the ALJ agreed with the Staff that Ameritech Michigan should make DID and RCF available to City Signal at equivalent existing rates, he found that MCI's calculation of the incremental costs for those services was reasonable. He concluded that the cross-examination relied on for those calculations supported the conclusion that they did, in fact, represent the incremental cost of the services. The ALJ also found that the Staff's proposal to prevent the double billing of IXCs for calls terminated under these interim solutions is satisfactory and, therefore, he recommended that it be adopted.

Finally, the ALJ was not persuaded that a time limit should be placed on Ameritech Michigan for the development of true number portability. He noted that the record demonstrated that Ameritech Michigan, along with the industry, is working toward development of a technically feasible number portability solution, and no evidence to the

contrary was presented. The ALJ therefore concluded that MCI's proposed deadline was not justified and should be rejected.

MCI excepts to the ALJ's rejection of its proposed deadline for Ameritech Michigan to provide true number portability. According to MCI, without direction from the Commission, Ameritech Michigan will not willingly implement true number portability because it wants to keep its competitive advantages as long as possible. MCI contends that, based on past experience with Ameritech Michigan, the Commission should require Ameritech Michigan to develop a true number portability solution within one year of the Commission's order in this case.

MCI also argues that, until true number portability is implemented, the ALJ should have increased the compensation threshold to plus or minus 50%.¹⁹ MCI points out that it proposed that threshold to recognize the need to provide incentives for Ameritech Michigan to provide true number portability. Additionally, MCI submits, until true number portability is available, it is possible that traffic flows between Ameritech Michigan and a new entrant will be unbalanced in favor of Ameritech Michigan.

MCI goes on to argue that the ALJ also erred in rejecting the approach used by the New York Public Service Commission in the Rochester Telephone Company case. Contrary to the ALJ's finding, MCI asserts, the record is replete with references to the circumstances giving rise to the settlement agreement and the terms of the agreement itself.

On the other hand, Ameritech Michigan argues that the ALJ erred in his recommendation regarding the pricing of both DID and RCF when those services are used for number portability. In particular, Ameritech Michigan states that no cost witness presented testimony

¹⁹This is the same issue that was addressed in the section on mutual compensation.

addressing the cost of DID service when it is used as a number portability option. Ameritech Michigan submits that the Commission should focus on the policy issues related to appropriate pricing of existing services when used as an interim number portability option. Specifically, Ameritech Michigan continues, the Commission should clarify the ALJ's vague recommendation to charge "equivalent present rates" for DID with a determination that, when used as a number portability solution, DID should be priced at a level that is equivalent to the pro rata share of its current rate that represents the DID components used to provide number portability service. Ameritech Michigan also submits that the Commission should refrain from establishing a discrete price for RCF as a number portability option because no evidence was presented regarding the cost of that service when it is used for that purpose. Ameritech Michigan concludes that compelled production of a 1988 cost study, which is the most recent version of RCF costs, and MCI's faulty calculation do not provide support for the establishment of any rate.

Moreover, Ameritech Michigan continues, the Commission has no authority to require it to modify the prices it charges for RCF services because, in its December 22, 1992 order in Case No. U-10064, the Commission determined that RCF is an unregulated service.

MCI responds that its incremental cost calculations are the most accurate cost studies of DID and RCF that exist today. MCI points out that, like its position on compensation for traffic termination, Ameritech Michigan has failed to offer any contrary cost evidence or analysis on the record. Consequently, MCI argues that the ALJ properly rejected Ameritech Michigan's proposal to price DID at its pro rata share of all components used to provide the end-user service, including contribution levels in line with comparable services. According to MCI, it would be fundamentally anti-competitive to price what is a bottleneck service, but

competitively essential, for competitive LECs in the same manner that Ameritech Michigan prices optional end-user basic local exchange services.

Ameritech Michigan also excepts to the ALJ's adoption of the Staff's proposal limiting the company to the assessment of a tandem switch charge for calls terminating from an IXC to a ported number. Ameritech Michigan argues that it should be allowed to continue to charge IXCs all terminating access rates as well as to receive payment from City Signal for DID and RCF. In support of its position, Ameritech Michigan argues that when DID and RCF are used, it continues to incur all of the access costs it would have incurred if the number was retained for its own customer. Specifically, Ameritech Michigan submits, it continues to incur tandem switching, local switching transport, carrier common line, and all other access costs. In contrast, Ameritech Michigan claims that competitive LECs do not incur any access costs in terminating an IXC call to a competitive LEC end-office through RCF or DID number portability arrangements. Ameritech Michigan concludes that the ALJ's recommendation is nothing more than an attempt by MCI, which made this argument, to inappropriately reduce the access charges it pays to Ameritech Michigan and to provide an advantage to a competing LEC.

MCI responds that this is completely erroneous. To the contrary, MCI submits, the competitive LEC incurs all costs of access in terminating an IXC-originated call, just as it would if the IXC could send the call directly to a NXX code resident in the competitive LEC's end-office switch. In other words, it switches the call, transports it, and terminates it to the end-user over a common line facility. Furthermore, MCI maintains that Ameritech Michigan does not incur anything approaching all the costs it claims. For example, MCI points out, Ameritech Michigan does not incur carrier common line expenses because a ported call never

is switched to a local loop by the incumbent LEC. Finally, MCI argues that Ameritech Michigan is compensated for its switching functions associated with DID and RCF because it will receive the incremental costs built into the rates for those services.

AT&T agrees with MCI that Ameritech Michigan's interpretation of this issue should be rejected because it would allow Ameritech Michigan to double recover some expenses and to earn revenues when no costs are actually incurred. AT&T asserts that the ALJ correctly sought to prevent an IXC from being billed access twice when its call is ported between local carriers to achieve interim number portability. According to AT&T, IXCs should not be double-billed for access functions. Instead, AT&T submits, when numbers are ported between local carriers, Ameritech Michigan will be expected to recover some of its costs in the price it charges the new carrier for DID or RCF.

The Commission finds that the ALJ properly analyzed this issue. Given the consensus that DID and RCF are the only currently available solutions to number portability, the Commission finds that they are appropriate only on an interim basis. However, at this time, the Commission is not persuaded that a deadline should be imposed on Ameritech Michigan to develop a long-term solution. Because this is an issue that the entire industry is addressing, it is not appropriate to single out Ameritech Michigan by imposing a deadline or a penalty at this time.

Turning to the rates for DID and RCF, there appears to be some confusion among the parties regarding the ALJ's finding on this issue. To clarify, the ALJ ultimately concluded that MCI's calculation of the incremental costs of providing DID and RCF, rather than the current tariffed rates, was reasonable. The Commission finds that this conclusion is supported by the record. Cross-examination of Mr. DeFrance revealed that the existing rates for DID and RCF

include functions that are not necessary for number portability. For example, Mr. DeFrance acknowledged that the price of DID includes a private branch exchange (PBX) charge of \$10.71. Mr. DeFrance agreed that, because a PBX trunk is an outbound trunk, it is not needed to provide portability, which is an inbound service.

The Commission therefore finds that the incremental costs developed by MCI are appropriate for the pricing of DID and RCF on a transitional basis. Specifically, those rates are \$.20 per line per month for DID and \$1.14 per line per month for RCF. Again, contrary to its contention, Ameritech Michigan had the opportunity to present options for the pricing of number portability options, but it chose not to do so. Consequently, Ameritech Michigan's criticism regarding the development of the appropriate pricing lacks merit.

The Commission also rejects Ameritech Michigan's argument that the Commission has no authority to modify the prices for RCF because it is an unregulated service pursuant to the December 22, 1992 order in Case No. U-10064. Ameritech Michigan ignores the fact that, in the November 23, 1994 order in this case, the Commission noted that, in Case No. U-10064, the RCF service at issue was an existing custom calling feature provided to end-users. In contrast, in this case, City Signal has proposed to purchase RCF (and DID) from Ameritech Michigan to effectuate number portability, which is an interconnection issue. As such, it is a regulated service and the Commission may set the price.

Turning to MCI's proposal that the costs for DID and RCF should be recovered through a surcharge on telephone customers, the Commission finds that it should be rejected. The Commission is not convinced that all customers should be assessed such a surcharge during the transitional period, or that competitive pressure will necessarily force new entrants to absorb the surcharge rather than pass it on to customers.

The Commission also is not persuaded that, until true number portability is implemented, the compensation threshold should be increased to plus or minus 50%. The Commission has already rejected that proposal earlier in this order.

Finally, the Commission finds that the ALJ properly concluded that there should be a limit on the access charges Ameritech Michigan assesses in those instances in which DID and RCF will be used. No evidence was presented to support Ameritech Michigan's assertion that it continues to incur all of the same access costs that it would incur in terminating a call to its own customers. As AT&T so aptly points out, such a scenario intuitively seems impossible given the fact that the new carrier will provide both the end-office switching function that routes the call to its final destination and the end-user loop itself.

Directory Listings

Section 305(1)(i) of Act 179 requires basic local exchange providers to provide directory listing information to all persons requesting that information, including affiliates, without unreasonable discrimination. Section 309(1) of Act 179 requires basic local exchange providers to provide their customers with an annual printed directory. Relying on those provisions, City Signal asserted that the need for common access to a data base of local telephone numbers is an interconnection issue.

City Signal took the position that there is a public need that all numbers within a given community of interest, such as the Grand Rapids District Exchange, be available in a common, centrally maintained data base. City Signal therefore proposed that each carrier be required to submit its list of customers to the data base administrator. Each local exchange provider could then access from that list the numbers needed to provide directory assistance and a complete telephone directory for distribution to its subscribers. In the future, City Signal

stated, a third-party administrator may be required, but in the interim, Ameritech Michigan should provide access to this information without charge.

In support of this position, City Signal pointed out that it is consistent with the manner in which Ameritech Michigan relates to other LECs. Specifically, City Signal cited the existence of "swap agreements" whereby the LECs exchange directory listings without charge. In contrast to that situation, City Signal stated that Ameritech Michigan has proposed to require City Signal to pay Ameritech Michigan to have the numbers of City Signal's customers included in Ameritech Michigan's listings at a one-time charge of \$8.35 per listing plus \$1.24 per listing per month. However, City Signal requested that it be treated in the same manner as other LECs and that the Commission require Ameritech Michigan to exchange directory information at no charge.

The Staff argued that, although Act 179 does not define the scope of a printed directory, it is reasonable to assume that the scope of that directory should include the local calling area. The Staff proposed that the Commission establish the interconnection arrangements for three parts of the provisioning of directories, i.e., the listing of customer information in a data base, access to and use of that information after it is included in a data base, and the publication of the local directory itself. The Staff maintained that to the extent these services are provided among LECs today, they should be provided under the same rates, terms, and conditions to City Signal. For example, the Staff stated, if Ameritech Michigan continues to make available inclusion in, and use of, directory listing information without charge to other LECs with whom it shares local calling areas, City Signal should be treated in the same manner.

Ameritech Michigan took the position that the subject of directory listings is not an interconnection issue. It argued that Sections 305(1)(i) and 309(1) do not in any way pertain to interconnection arrangements. Rather, Ameritech Michigan argued, those sections demonstrate that the Commission does not have the authority to require Ameritech Michigan to create a common listing data base. The company contended that there is substantial competition for the development of listing information and the publishing of directories that has evolved without the creation of a common data base. Ameritech Michigan therefore asserted that the competitive market should be allowed to work in this area.

As to swap agreements, Ameritech Michigan stated that while they have existed in the past, all of them have been terminated. The company stated that it is currently negotiating with those affected LECs to determine the appropriate compensation for delivery of listing information. Ameritech Michigan further indicated that it is willing to provide City Signal with directory listings under the same terms and conditions as those listings are made available to other directory publishers. Ameritech Michigan concluded that the Commission has no authority to dictate the terms and conditions under which LECs make their listings available, as long as they do so under nondiscriminatory terms and conditions.

The ALJ agreed with Ameritech Michigan that there is nothing in Act 179 that gives the Commission the authority to require the company to create a common listing data base as proposed by City Signal. As to the swap agreements, the ALJ acknowledged Ameritech Michigan's statement that they have been terminated. He also noted Ameritech Michigan's position that it is willing to provide City Signal with directory listings under the same terms and conditions as those listings are made available to other directory publishers. The ALJ

concluded that this complies with the provisions of Act 179. He therefore recommended that the Commission take no action relative to this issue.

The Staff excepts to the ALJ's finding that Ameritech Michigan's stated intention to provide City Signal with directory listings under the same terms and conditions as are available to other directory publishers complies with Act 179. To the contrary, the Staff argues, charges to other directory publishers are not relevant. The Staff points out that, in the past, rates charged other directory publishers were 13¢ to 23¢ per listing, while local listing information has been provided to other LECs free of charge. The Staff concludes that it is not acceptable under Act 179 to treat City Signal differently than other licensed LECs.

City Signal and Teleport filed similar exceptions on this issue. Teleport asserts that facilitating inclusion in, and access to, Ameritech Michigan's white pages listings by City Signal is an interconnection issue, which is necessary to equally integrate all customers into the public switched network. City Signal agrees with the Staff and Teleport and states that it will agree to terms that are consistent with those between Ameritech Michigan and other LECs.

On the other hand, the Staff agrees with the ALJ's recommendation that Ameritech Michigan should not be required to create a comprehensive data base for all local listing information. However, the Staff submits, the issue of whether such a data base already exists is still in question. The Staff points out that Exhibit S-85 indicates that independent LECs have customer information entered into a directory assistance data base without charge to them. The Staff states that it merely proposes that if such a common listing exists and is used by all LECs today in the development of local calling directories, City Signal should be permitted listings in that same data base under the same rates, terms, and conditions.

Finally, the Staff states that it agrees with the ALJ that if City Signal can reach an agreement with another entity to publish its directory, there is no issue to be resolved. However, the Staff argues that no evidence was presented regarding the extent of alternative sources for publication of such information. Because the Staff believes that an alternative must exist to enable City Signal to provide a published directory, the Staff suggests that Ameritech Michigan hold itself out to provide that service to City Signal.

In response, Ameritech Michigan and MECA state that nothing in Act 179 gives the Commission authority to dictate the terms and conditions under which LECs make their listings available, as long as they are made available under nondiscriminatory terms and conditions. According to Ameritech Michigan, the Commission has no authority to impose City Signal's obligations on Ameritech Michigan, to dictate the terms and conditions under which City Signal may choose to have Ameritech Michigan publish directories on its behalf, or to require Ameritech Michigan to create or maintain a common data base for the use and benefit of competitors. Ameritech Michigan points out that the directory information business is highly competitive and customers have many alternatives for listing information. MECA adds that if the Commission concludes that it has the requisite authority, it should also make directories available to other LECs at their option at a reasonable price.

MECA goes on to argue that the Commission should declare that the use of swap agreements in EAS areas does not constitute unreasonable discrimination under Section 305(1)(i) of Act 179. In MECA's view, the ALJ's statement regarding Ameritech Michigan's termination of swap agreements should not be construed to imply that such agreements will no longer be permissible. MECA says that although Ameritech Michigan may have currently terminated most of its swap agreements, they have not yet been replaced by new agreements.

According to MECA, many of its member companies will continue to negotiate for the use of swap agreements in EAS areas. MECA requests that the Commission find that there is a rational basis to continue to allow swap agreements in EAS areas.

The Commission agrees with the ALJ that Ameritech Michigan should not be required to create a common listing data base if one does not currently exist. However, if a common listing does, in fact, exist, City Signal should be permitted listings under the same rates, terms, and conditions as other LECs. Likewise, Ameritech Michigan should provide City Signal with directory listings on the same rates, terms, and conditions as Ameritech Michigan offers to other LECs. The Commission agrees with the Staff that it is not acceptable under Act 179 to treat City Signal differently than other LECs. Toward that end, if Ameritech Michigan wishes to negotiate swap agreements, it is free to do so.

On the other hand, the Commission does not agree that, at this time, Ameritech Michigan should be required to hold itself out to provide a published directory to City Signal. Based on the record, it appears that City Signal will be able to reach an agreement with another entity to publish its directory.

Directory Assistance and Other Data Base Services

Section 102(m) of Act 179 defines local directory assistance as "the provision by telephone of a listed telephone number within the caller's area code." [MCL 484.2102(m).] Section 309(1) of Act 179 goes on to require that a provider of basic local exchange service provide local directory assistance to each customer. [MCL 484.2309(1).]

City Signal indicated that it has identified one of the various competing directory assistance service providers to provide services to it instead of contracting with Ameritech

Michigan. Consequently, City Signal is not asking the Commission to establish any terms and conditions for the provision of this service by Ameritech Michigan.

On the other hand, City Signal has requested that Ameritech Michigan provide access to the Line Information Data Base (LIDB) and the 800 Data Base (800DB).¹⁴ The Staff supported this request and proposed that interconnection to those data bases between City Signal and Ameritech Michigan occur under the same rates, terms, and conditions presently offered to other LECs.

Ameritech Michigan stated that it is willing to enter into negotiations with City Signal for a package of services, including access to LIDB and 800DB. If City Signal simply wishes to purchase LIDB and 800DB, Ameritech Michigan stated that it will provide those services under the rates, terms, and conditions contained in Ameritech Michigan's access tariff, plus any additional rates, terms, and conditions that are set forth in the agreements contained in Exhibits S-25, S-27, and S-33.

The ALJ found that Ameritech Michigan is willing to provide access to the data base services under the rates, terms, and conditions set forth in its access tariff. He noted that there was no showing that Ameritech Michigan intends to discriminate against City Signal in this area. The ALJ therefore recommended that the Commission not take any action on this issue. The Commission agrees with the ALJ.

¹⁴LIDB is the data base used for credit card verification and other alternate billing information. The 800DB is a data base that contains customer information regarding 800 numbers and the IXC's to which the 800 numbers are presubscribed.